



Livestock Facility Siting Newsletter Release

This information may be reprinted in part or in full

In order to track and evaluate our information and education efforts, we would appreciate notice if you include this information in your publication

Release Date: August 14, 2006

**Contact: Richard Castelnovo, 608-224-4625
Richard.castelnovo@datcp.state.wi.us**

Adopting More Stringent Standards for Livestock Facility Siting

Under the recently adopted livestock facility siting law, local governments must use state standards if they want to regulate the siting or expansion of livestock operations. In most cases, local governments must only apply the state siting standards when making a decision about a local siting application. In some instances, however, local governments may be able to adopt more stringent standards if the more stringent standards are necessary to protect public health and safety.

In order for a local government to adopt a more stringent standard, the local government is required to develop scientifically defensible findings of fact to show that the more stringent standard is necessary to protect public health and safety. This more stringent standard must be adopted into local ordinance. When deciding whether to pursue the adoption of a more stringent standard, it is important for a local government to work closely with their corporation counsel. In addition, a local government must recognize that the need for a more stringent standard must be supported by facts on a case-by-case basis.

One situation in which a more stringent standard may be necessary to protect public health or safety was identified in a legal opinion on this topic prepared for the Wisconsin Counties Association. In this example, a more stringent standard may be appropriate if a local government is able to provide scientifically defensible findings of fact to show that local soil or geologic conditions require increased landspreading precautions to protect private and public drinking water wells. Scientifically defensible finding of fact might include a county specific study or a report to show that there is a need for the more stringent standard.

Local governments may not adopt locally-specific nutrient management requirements as a part of a siting ordinance unless they follow the rules for adopting more stringent standards under the siting law. Locally specific nutrient management requirements may include winter spreading restrictions. Again, these more stringent criteria must be adopted into your siting ordinance and must be justified based on public health and safety. Similarly, if a local government wishes to impose more stringent standards in an overlay zone, it must follow the procedures for adopting more stringent standards.

Any standards that are more stringent than the state standards must be adopted into the local ordinance prior to receiving a siting application for which an applicant will be required to meet the more stringent standard. If your local community adopts a more stringent standard into local ordinance, it becomes part of the siting application. If an applicant does not meet that standard, you can deny the application. The applicant retains the right to appeal the approval decision to the Livestock Facility Siting Review Board.



Livestock Facility Siting Newsletter Release

The Board has the authority to determine if the more stringent standard was adopted properly and for defensible reasons by the local government, and has the right to uphold or overturn the disapproval decision.

The issue of protecting public health and safety is an important consideration under the siting law. As discussed in this article, a local government must be able to show, through scientifically defensible findings of fact, that a more stringent standard is necessary to protect public health or safety. Additionally, if a local government wishes to prohibit or exclude livestock operations of a certain size in an agricultural zone, it must be able to show a public health or safety reason. For more information on prohibitions or exclusions within an agricultural zone and public health or safety, see <http://livestocksiting.wi.gov>. For more information on the issue of adopting more stringent standards based upon public health or safety, county officials should contact the Wisconsin Counties Association and town officials should contact the Wisconsin Towns Association.